HONOURABLE SRI JUSTICE K.C. BHANU

W.P.No.20492 of 2005

Dated 19th September, 2005

Between:

M/s. Ramchandra Rice Mill

Rep. by Lessee Madupalli Usha,

W/o.Sri Parthasarathy, aged 35 years

R/o.Racherla Road, Prathipadu,

Juvvalapalem Post, Pentapadu Mandal,

West Godavari District .. Petitioner

And

The Andhra Pradesh Eastern Power Distribution

Co. Ltd. Rep. by its Chairman & M.D.

Near Saraswathy Park, Daba Gardens,

Visakhapatnam and three others .. Respondents

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W.P.No.20492 of 2005

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the final assessment order dated 12.8.2005 issued by the 2nd respondent confirming the provisional assessment order, dated 15.6.2005 passed by the 3rd respondent as illegal and arbitrary.

The learned counsel for the petitioner has contended that the 3rd respondent has not taken note of the consumption of electricity for the preceding three months as per the guidelines and that the 2nd respondent, without considering the representation of the petitioner, passed the impugned order which is contrary to the regulations of the Board, and hence, he prays to set aside the same.

On the other hand, the learned standing counsel for the respondents has contended that against the order of 2nd respondent, an appeal shall lie to the Superintending Engineer, and therefore, the petitioner, if aggrieved by the orders of the 2nd respondent, may file an appeal before the competent authority. The authority of the 2nd respondent, who passed the final assessment order is not under challenge, so also, the principles of natural justice have not been violated.

The only contention of the learned counsel for the petitioner is that the representation of the petitioner has not been considered in the right perspective by the 2nd respondent while confirming the orders of the 3rd respondent. The same can as well be agitated before the Superintending Engineer, who is the competent authority. It is also necessary to take note of the fact that whether the determination of the quantity of the electricity supplied for the preceding three months has to be taken into consideration and whether the said fact has not been taken note of by the 2nd and 3rd respondents. The learned counsel has also contended that under Section 127 of the Electricity Act, 2003, 1/3rd of the amount has to be deposited by the consumer, but the said provision has no application to the facts of the present case because the said provision will apply in case of pilferage of energy, but here is a case where there was a defective meter in the premises in question.

Therefore, without entering into the merits of the case, I consider it appropriate to direct the petitioner to file an appeal before the Superintending Engineer, who is the competent authority.

With the above observation, the writ petition is disposed of. No costs.

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19.09.2005

bcj